

To: Benenati, Frank[benenati.frank@epa.gov]
From: Enck, Judith
Sent: Mon 9/12/2016 12:26:02 PM
Subject: Re: Region 2 News Clips (PFCs)

Will do

Sent from my iPhone

On Sep 12, 2016, at 8:25 AM, Benenati, Frank <benenati.frank@epa.gov> wrote:

Saw this last night - pretty epic. Let me know when you schedule your NYT meeting - will be good to just put this storyline to bed with a definitive story.

On Sep 12, 2016, at 8:19 AM, Enck, Judith <Enck.Judith@epa.gov> wrote:

Subject: News Clips (PFCs)

<image001.gif>
NEW YORK POST

Editorial

Cuomo's team still hasn't learned the key lesson of Hoosick Falls

By Post Editorial Board

September 11, 2016

After two legislative hearings on Hoosick Falls' water crisis, it's become painfully obvious: Gov. Cuomo's water-quality monitors dropped the ball. Disastrously.

Worse, Cuomo & Co. refuse to take any responsibility for letting folks drink water — for 18 months, if not longer — even though they had grounds to know it was tainted.

That refusal, as lawmakers said at last week's hearing, leaves little confidence the state will handle future crises properly.

"Would you have let your mother drink that water for 18 months?" Assemblyman Steve McLaughlin (R), who represents the area, asked state health czar Howard Zucker.

Officials knew, or should've known, that a Hoosick plant had long made Teflon with PFOA, a chemical linked to cancer. In 2009, the federal Environmental Protection Agency warned against drinking water (even for short periods) with PFOA levels above 400 parts per trillion. Yet it took years for anyone to bother to test Hoosick's water.

The alarm came after a local, Michael Hickey, whose dad had died of cancer, hired a lab that in 2014 found high levels of PFOA. Even then, state officials spent 18 more months telling residents the water was safe.

Their excuse? EPA guidelines were "confusing." Bet the dog ate their homework, too.

"I'm not sure why we have you guys," Assemblyman Tom Abinnti (D-Westchester) fumed. "You're the ones . . . responsible" for protecting New York, "not the EPA."

Even a former head of the Health Department's Center of Environmental Health admitted his agency "downplays" risks and stresses uncertainties about PFOA's effects, violating the "precautionary principle" officials are supposed to adhere to.

Huh. Recall how the gov banned fracking — supposedly out of caution, even though research shows virtually no health risks at all? Yet when it comes to real health dangers, his staff was dismissive.

And they still won't admit their mistakes — leaving New Yorkers to worry they might make them again.

Photo: AP Andrew Cuomo

Niagara Gazette

Hoosick Falls' water woes lead to scrutiny for health officials

HOOSICK FALLS: Chemical first confirmed in water in August 2014.

By Joe Mahoney CNHI State Reporter

16 hrs ago

Joe Mahoney / CNHI State Reporter Residents of the Hoosick Falls area, from left, Loreen Hackett, Emily Marpe and Michele Baker were among those urging lawmakers to scrutinize the state's response to a water contamination crisis in their community.

ALBANY — Residents of Hoosick Falls compare the water contamination in their village of 3,500 people with the crisis in Flint, Michigan, where lead-laced drinking water created a public health emergency.

State health officials say they're doing all they can to help the village on the Vermont border deal with toxic chemicals in the groundwater. But residents and several state lawmakers are steamed, saying more people could have been sickened in the time it took the state to react.

"The lesson for all Americans here is that people need to know what's in their drinking water, and know what state officials are doing to keep it safe," said Michele Baker, an organizer of a grassroots group focused on the contamination. "New York state knew what was in our water and allowed us to keep drinking water with contaminants for months."

Baker said the pollution is the result of years of dumping harmful chemicals used in manufacturing — complicated by government inertia.

Hoosick Falls isn't confronting lead, like Flint, but rather a chemical used to make Teflon non-stick coatings and other products. The chemical was first confirmed in Hoosick Falls' water in August 2014.

Since then, one grim revelation has followed another about toxic dump sites and the health effects for residents.

The latest came this week, when the U.S. Environmental Protection Agency put the Saint-Gobain Performance Plastics plant on McCaffrey Street on the federal Superfund list of most contaminated sites.

The EPA told residents last December to stop drinking the water — at a time when state officials were suggesting that it could still be safely consumed.

The EPA said groundwater at the plant is contaminated with perfluorooctanoic acid and the industrial solvent trichloroethylene. The EPA said groundwater supplying the village's public wells is also contaminated with the acid, as well as vinyl chloride and dichloroethylene.

Perfluorooctanoic acid, or PFOA, is used to make no-stick pots and pans, stain-resistant carpets, and water-resistant outerwear. It causes adverse health effects, the EPA said.

Water testing in the village and nearby communities confirmed local suspicions that there were plenty of reasons to worry. Samples showed PFOA concentrations as high as 21,000 parts per trillion at one site.

In May, the EPA issued a lifetime standard for exposure to PFOA of 70 parts per trillion in drinking water. Previously, it issued guidance of limiting exposure to 400 parts per trillion.

Residents and a doctor say the community has seen higher levels of cancers and thyroid diseases, though there is no estimate of the number of illnesses related to suspected exposure. Blood testing of more than 2,000 people found elevated traces of PFOA in more than half.

With lawmakers scrutinizing the state's response - and Hoosick Falls residents' vocal anger for not having been advised earlier to stop drinking the water - tensions have mounted between the Cuomo administration and EPA.

In an Aug. 30 letter to an EPA administrator, state Health Commissioner Howard Zucker and Environmental Conservation Commissioner Basil Seggos said PFOA remains "an unregulated contaminant" even though the federal government "has known of its existence in drinking water for more than a decade."

"The EPA must provide clearer guidance about when a water system should be taken offline — or when bottled water should be provided — in the case of an exceedance of a maximum contaminant level or a non-binding health advisory level," the commissioners wrote.

Zucker, at a legislative hearing in Albany this week, offered a spirited defense of his agency in the face of pointed questions. Lawmakers suggested the Health Department fell down in protecting the public when a fact sheet distributed to residents last December said their water was safe to drink.

On Friday, Assemblyman Richard Gottfried, D-Manhattan, chairman of the Assembly Health Committee, said the state's health and environmental agencies will soon be prodded by "strong new legislation" to do a better job of protecting the public.

He said the state had not been "clear" with residents about the health concerns.

"The state should have clearly said that the PFOA concentrations in the water created real health risks, and people should not drink it. The science was well established years before the Hoosick Falls crisis erupted," he said.

Zucker noted gaps in EPA regulations that helped create the crisis. The federal government only requires testing for unregulated contaminants such as PFOA in water systems serving at least 10,000 people.

He said the EPA also has responded to PFOA contamination in different ways, and created confusion by offering guidance that kept evolving.

Those lecturing the commissioner included Assemblyman Steve McLaughlin, R-Rensselaer County, whose district includes Hoosick Falls.

"Eighteen months and people weren't notified," he said of the state's delay. "That's a huge problem, Dr. Zucker, and you want to avoid it. But it's a major problem for the people of Hoosick Falls."

Zucker said his agency followed EPA guidelines and worked with village officials to lower the levels of the chemical in the water. New filtration has resulted in the lifting of the no-drink order for tap water, with testing showing non-detectable levels of PFOA.

Asked by McLaughlin why the department never set its own guidance level for PFOA contamination after saying it would, Zucker said the levels should be set by the federal government.

He said New York has about 2,700 community water systems and non-public water systems, such as those at schools, that aren't required by federal rules to be tested for such contaminants.

Saint-Gobain, in written statement to lawmakers, said the Hoosick Falls area has had multiple manufacturers that used PFOA — going back decades before it began operating there in 1999.

The company also noted that it offered to pay for bottled water for all residents; it has paid for the design and installation of a carbon filtration system; and it funded the installation of treatment systems for those not connected to the village's water supply.

Health officials said the state is putting \$400 million into water infrastructure improvements across the state, while investing \$300 million in the state Environmental Protection Fund.

It is also offering communities \$5 billion in financing for drinking water projects

OPINION

Times Union

LeBrun: Health Department's Zucker in hotseat

DOH handling of Hoosick Falls PFOA crisis leaves mess for Gov. Cuomo

Fred LeBrun

Published 7:34 pm, Saturday, September 10, 2016

Last week's joint legislative hearing in Albany on the Hoosick Falls water crisis and the state's faulty response was a giant leap forward in getting it right.

A country mile from the state Senate hearing the week before in Hoosick Falls, when state Health Department Commissioner Dr. Howard Zucker was allowed to babble at will in his agency's defense, and complimented for it. A "fact-finding" hearing that gave tripe a bad name.

Not this time. Thirteen hours of testimony from a wide range of experts and questioning from nearly three dozen legislators gave the issue a fair hearing and ultimately a resounding thumbs down for the state DOH. Led by the Assembly, questions were sharp and the range of observations by the questioners not at all flattering to Zucker, who led off the marathon of testimony, or to his health department. It was appropriately a bipartisan roast.

All the witnesses, including Zucker, were sworn in with a simple, "Do you swear to tell the truth?" But not the whole truth, and nothing but the truth, as we subsequently learned.

There is a Grand Canyon between a deliberate lie and the whole truth — coming clean — and Dr. Zucker showed us over and over for nearly five hours that he could sit comfortably at the bottom of that canyon, wrapped in implausible deniability. He answered questions that weren't asked, and didn't answer those that were. He went off on tangents. He gave irrelevant material to relevant inquiries. In short, he practiced classic evasion.

While the closest Zucker came to admitting any state culpability was by begrudgingly allowing that a key DOH advisory to residents related to consequences of drinking the PFOA-contaminated water could have been better written, he revealed himself to one and all anyway. It wasn't pretty.

Zucker, remember, is both a lawyer and a doctor. So there he was, on the hot seat over the most serious public credibility crisis the state DOH has faced in memory. And which hat did he choose to wear? Right. The black one.

The problem is Zucker is not of counsel to some shyster law firm trying to slime out of a tight hole. He's the state's emblematic first doctor, constitutionally in charge of our public health, which he is supposed to guard with an abundance of caution. Not a profusion of risk, as he implicitly and repeatedly defended. What Zucker showed us is something's gone dreadfully wrong with the moral compass at our state health department.

At this juncture, the governor's office understandably has to be running every aspect of the damage control Zucker's DOH has brought to Cuomo's doorstep. With another hearing on Monday on Long Island, and yet another Assembly hearing after that because the DOH failed to deliver requested materials in a timely fashion, this ongoing PR nightmare is the last thing the administration needs as it girds for doomsday with federal prosecutor Preet Bharara.

I have a hunch that early on the Cuomo crowd took the advice on how to proceed from the top echelon of the DOH, and now they're stuck with a really stupid situation that is embarrassing the governor. It could so easily have been avoided by admitting they had inadvertently misinformed the residents of Hoosick Falls. A simple apology. An appropriate act of contrition, and by now it would be a paragraph in an old story instead of negative headlines in the New York Times.

It's never a good plan to embarrass the governor, especially when he's your boss.

Not to sound too much like Max Von Sydow in "Three Days of the Condor" instructing Robert Redford on how the end will come, but Zucker, it will be when you least expect it, someone you trust ... a two paragraph press release at 5 p.m. on a Friday announcing you've accepted an opportunity of a lifetime to study the brown snake epidemic in Guam.

During the hearing we heard that the EPA had nominated the Saint-Gobain site for federal superfund status, big news. That means federal resources, engineers, scientists, an entirely different culture from our state DOH, will descend on the site. Plus EPA lawyers will engage the polluters, Saint-Gobain, and others, to pay for every dime.

The most revealing testimony came from Dr. Howard Freed, former head of the state DOH's Center for Environmental Health. Because what he told us goes to the heart of the most puzzling aspect of Zucker's defense of the indefensible. Namely, why is he doing this? To what end?

It seems it's not just about the DOH's actual dicey handling of this particular situation, so much as it is a broader and deeper defense of the existing DOH culture, of how they do business. Described by Freed as while not outright lying to the public, "the DOH has a troubling tendency to downplay potential health risks from toxic contaminants ... a pattern of behavior doomed to fail the people of New York."

Sounds familiar.

So what Zucker is fighting for is to preserve the status quo for his agency, and his job. Considering the disaster it's brought the administration, I wouldn't bet on it, doc.

The central question that leaves us is if Zucker and the DOH continue to refuse to admit their mistakes, or even the possibility they could be mistakes, what confidence can we have they'll do any better in the future?

OPINION

Times Union

My Thoughts on the Water Hearings

By John T. McDonald III - Member New York State Assembly

September 10, 2016 at 7:28 AM

This past Wednesday the NYS Assembly and Senate conducted a hearing at the Capital regarding water quality in New York State. As one knows this is a direct result of the PFOA contamination in Hoosick Falls as well as Petersburg and the recent PFOS concern in Newburgh. I should note that there are many more concerns throughout the state and the country and issues such as this that communities and families have struggled will certainly happen again.

The hearings, of which those who spoke where sworn in, lasted over 12 hours and was before a bipartisan mix of members of the Assembly and Senate and on both sides of the aisle. Led by our respective committee chairs in health and the

environment but with the collective voices of dozens of legislators including myself, DOH and DEC were questioned at length about specifically the Hoosick Falls crisis and the state's response to the issue. This is what the legislature is supposed to do which is why I have supported the call for these hearings since the spring time and am glad they are now underway. My thought is not to find a guilty party or to point a finger but in fact to see where government responded well and to also see where government could have done better. That is our role to prepare for the next event which is not if but when.

I was able to spend most of the day there but unfortunately due to a Troy City Budget meeting could not stay until the end however the good news is that as members we receive all of the testimony of those who spoke and please know that all of those testimonies are reviewed. That being said, here are a few observations I would like to share that were enlightening to someone like myself and maybe those following this blog:

- DOH and DEC Commissioners I thought were very open and straightforward in their remarks. Yes, they led with the challenge about PFOA and PFOS in that they are unregulated contaminants which means that most local systems are not required to monitor it but at the same time they suggested ways to improve overall monitoring. I take this in the spirit that PFOA is one of 80,000 examples of items not regulated and if we truly want to protect the public then we need to be more expansive, with or without the EPA, to be mindful of chemicals in our water supply
- I was surprised to hear from more than a few that EPA has different levels of monitoring amongst its various regions. It is worthy of mention that the country is broken up into regions (we are Region 2) and that it is not uncommon to have different regions have different levels of measurement. To me that provided a bit of insight into the fact that in as much as there has been discussion of a State vs EPA approach, it is clear that even within its own agency (EPA), there is not always a level of agreement. Not surprising as any large organization will have that challenge to overcome and of course NYS Agencies are not immune from this either.
- Much has been made about when the State of NY should have sounded the alarm. A former Director of the CEH spoke of the two various approaches – minimalist vs precautionary with the latter more akin to ringing the bell and checking for the fire while the former more akin to checking to see if there is a fire and then ringing the bell. The DOH was working with the local government to ensure the public was being informed however there are some that believe DOH should have been more public and present on the process. I am undecided if that would have been effective however I do believe it is something we can learn from and candidly do a better job next time.
- DOH I believe was very thorough in its diagnosis of the problem. Dr Lloyd Allen gave a very lengthy explanation on more than a few occasions on the efforts the agency underwent to identify the source of PFOA as that was one of the critical components of identifying the problem which would lead to a solution. Dr Allen's testimony and that of the others reminded me about something that should not be lost in this whole process which is that individuals such as him who

are very learned and dedicated to public health and safety are very aware of their responsibilities and in no way or method would they be derelict in their duties. My experience as a former Mayor with DOH and DEC is often times they are overly burdensome on items that one might consider to be minor and that speaks to their continued approach of protecting the public.

- The local governments I believe performed their duties as best they could with the information they were provided to serve their public. What people do not recognize in issues such as this when there is a difference of opinion at the state and federal levels is that those governments below are often caught in the middle. They struggle with the fact that there is a problem and being the form of government that is closest to the people, they can only convey what they know and more times than not it is face to face in the grocery aisle or at the corner pharmacy. Kudos to the county and village officials for their work here as they serve their public.

- Those same local governments shared their thoughts on how to improve the process. No finger pointing but instead where there can be improvement. Not surprisingly it is the form of enhanced communication not only between the governments but also ways to improve the quickness and reliability of information to the public, using the tools that are available today.

I am glad the hearings are underway and will continue. What is lost on many is that science is still not certain of the relationship between levels of PFOA and its direct relationship to causing severe health issues. This issue continues to evolve and it is clear we will know more in the next few years than we knew today. Still there is enough information to take a precautionary approach and when the book is finished on this crisis it will probably focus on this one issue – when was the right time to stop the public from drinking the water.

For the past several months Hoosick Falls has received a significant amount of resources and have a continued commitment going forward. Personally I am concerned about those who have moved away either temporarily or permanently which is why I have asked at the hearings for another large outreach of blood testing especially as many are inclined to come home in the next months with the holidays of Thanksgiving and Christmas.

As a reminder, I am not looking for a villain in this crisis but in fact what can we as government do better. Although this matter will not go away soon, it is clear that the residents of Hoosick Falls and many other communities have risen to challenge and they are to be commended as they truly have lived a year of hell and then some. We will continue to fight for the resources for this situation as that is our role and responsibility and Yes there will be changes in regards to testing, detection and response, all of which is an outcome of the hearings. It's what government should do.

OPINION

DAILY GAZETTE

No excuses acceptable for slow response in Hoosick Falls

September 11, 2016

Since when does New York take a back seat to anyone when it comes to enforcing rules and regulations?

Apparently, there's a first time for everything, and it was revealed during last week's legislative hearing on PFOA contamination in Hoosick Falls.

Top officials from the state Department of Environmental Conservation and Department of Health spent hours last Wednesday fending off tough questions from state lawmakers over the state's response to contamination of the Rensselaer County community's water supply.

Particularly, lawmakers were trying to get an explanation as to why the state reacted so slowly to warn Hoosick Falls residents about the dangers of drinking their water due to contamination from PFOA, a chemical used in the manufacture of non-stick cookware that has been linked to cancer. A local plant produces the chemical.

State officials were informed by residents in 2014 of the potential problems, but failed to issue a warning for nearly a year and a half, according to The New York Times. And that warning only came after the federal Environmental Protection Agency had already issued its own warning.

The general chorus being sung by state officials circling their collective wagons was that on one hand, the state did warn residents, and on the other that the delayed response for alerting residents was the EPA's fault.

State officials certainly have a point. The EPA — which has its complete job description, “environmental protection,” in its name — could have and should have reacted more vigilantly in response to reports of contamination.

But that doesn't let New York officials off the hook for their slow response, nor does it lend any credence to the implication that the state was powerless to act more aggressively.

This is New York. The state that practically invented overregulation and enforcement. The state that takes pride in being the first to take action to control practically anything.

We were the first state in the country to enact strict gun control regulation after the mass shooting at Sandy Hook Elementary School in Newtown, Conn. The legislation, which literally was passed overnight, included some of the nation's toughest firearms regulations, including a limit on the number of bullets an assault rifle could hold.

We were the second state in the union, behind those environmental zealots in

Vermont, to ban hydrofracking, the widespread but controversial process for extracting natural gas from underground shale deposits.

New York has creatively used its considerable regulatory authority to take action to hold up construction of two pipelines designed to carry fuel across the state.

Last year, a North Carolina think tank ranked the Empire State dead last in the country in “freedom,” citing among other factors New York’s excessive regulation in the areas of land use, utilities, torts, insurance, labor, housing and telecommunications.

Badges? We don’t need no stinkin’ badges. If we want to regulate something or take legal action to shut down a polluter, we don’t ask permission. We just do it. We’re the friggin’ state of New York, bub!

Yet when it comes to taking the lead on protecting our own residents from drinking polluted water, we suddenly plead the Fifth and shirk responsibility for our own dawdling to the feds?

We’re not saying that all of this regulation is necessarily a bad thing. Much of it is indeed overreaching. But a lot of it also has resulted in New Yorkers having more protections than residents in other states from harmful actions spurred by greedy corporations and lawyers seeking to make a buck off the health and safety of our residents.

New Yorkers don’t need excuses. And we don’t need scapegoats. We need state officials to look out for us. When they see a problem that needs immediate action from its regulatory bodies, we need them not to wait for some other government agency to do something. We need them to act.

They seem to have forgotten that obligation in Hoosick Falls.

Let’s make sure it doesn’t happen again.

State setting permanent standard for PFOA (VT)

Standard currently being enforced under an emergency rule would be permanent

By Edward Damon

benningtonbanner.com

POSTED: 09/11/2016 10:00:32 PM EDT

BENNINGTON — State environmental officials are moving forward on setting a standard for PFOA in drinking water.

The state's new standard for the man-made chemical that turned up in public and private water supplies, when the rulemaking process is complete, would be the lowest in the country.

The proposed amendments to the state's groundwater protection and hazardous waste management rules would set a limit of 20 parts per trillion (ppt) of PFOA and related chemical PFOS in drinking water. That standard is already being enforced under an emergency rule issued to the Agency of Natural Resources in May that also classified the chemicals as hazardous waste.

A public comment period ended Friday. ANR will address the comments in a responsiveness summary, according to Danika Frisbie with DEC. That summary and a final copy of the proposed rule will be submitted to the Legislative Committee on Administrative Rules. The LCAR will make the final decision on whether or not to adopt the proposed amendments, according to Frisbie.

The company that owned a suspected source of PFOA contamination in North Bennington had challenged the state's standard in court. One complaint was dismissed by a Washington County judge last month. Two other complaints are still pending in environmental court.

The Saint-Gobain Corporation argued that the 20 ppt standard lacked scientific data and alleged the state did not follow Vermont's Administrative Procedures Act.

Advertisement

Washington County Superior Court Judge Timothy Tomasi ruled the state had jurisdiction to make the standard.

PFOA, or perfluorooctanoic acid, was used to make the non-stick coating Teflon for decades before it was phased out. It's in a family of perfluorinated chemicals that repel oil and water. PFOA has been linked to cause cancers, kidney and thyroid diseases, high cholesterol and other diseases.

DEC believes the former ChemFab/Saint-Gobain plant, which closed in 2001, is the source. The state has been in talks with the company during site investigations.

Of the 525 private wells tested for PFOA and related chemicals since February, 259 had PFOA levels above the state's 20 ppt standard. In 71 wells, PFOA was detected below the state's standard. No PFOA was detected in 194 wells.

In 183 of the wells tested, levels were found above the federal standard of 70 ppt. Of those, 10 wells located on North Bennington Road, near Royal Street and the former ChemFab plant, were above 1,000 ppt. The highest amount – 2,730 ppt – was found at a well on Harrington Road.

Vermont's final standard for PFOA in drinking water would be the lowest in the country. New Jersey set a 40 ppt limit in 2007. New York has used a 100 ppt limit

after contamination was found around Hoosick Falls. The Environmental Protection Agency issued new a lifetime health advisory of 70 ppt in May. That replaced a 2009 provisional health advisory of 400 ppt for short-term exposure (weeks to months).

The Vermont Department of Health first issued a health advisory for PFOA in February. On March 16, DEC Commissioner Alyssa Schuren set DOH's 20 ppt health advisory as the interim groundwater enforcement standard until the state's Groundwater Protection Rule and Strategy could be amended. ANR Secretary Deb Markowitz filed an emergency rule on April 13 that listed PFOA and PFOS as hazardous substances and adopted 20 ppt as the groundwater protection enforcement standard. Markowitz refiled the emergency rule on Aug. 25 because it was set to expire.

Saint-Gobain attorneys, in complaints filed on April 13, argued that the interim enforcement standard was designated without public comment; the company sought a declaratory judgement to strike it down.

Judge Tomasi ruled that there was no federal standard when the state set an interim standard.

"The salient issue here is whether the interim standard has any present effect. It does not," Tomasi wrote in an Aug. 22 opinion. "The court sees nothing in the applicable statutes... that would cause it to somehow spring back to life in the future — even if that emergency rule lapses."

"The Washington Superior Court held that the interim PFOA standard of 20 ppt was nullified when the state enacted an emergency rule in its place," Saint-Gobain Spokeswoman Dina Silver Pokedoff said in a statement. "Saint-Gobain's two other legal challenges to the 20 ppt standard remain active."

DEC officials declined to comment on Saint-Gobain's pending suits.

ANR and DEC have eight months from the time of filing to complete the rulemaking process and adopt the amendments. The amendments were filed on July 12.

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